DOT 3710.4
July 1980

Labor-Management Relations Program

U.S. Department of Transportation
Office of the Secretary of Transportation

Department of Transportation
Office of the Secretary
Washington, D.C.

ORDER

DOT 3710.4

7-7-80

SUBJECT: LABOR-MANAGEMENT RELATIONS PROGRAM

1. **PURPOSE. This directive contains Department of Transportation (DOT) policies, procedures and other information for conducting the Labor-Management Relations Program in accordance with Title VII, Federal Service Labor-Management Relations, of the Civil Service Reform Act (CSRA) of 1978 (Attachment 1).**

2. CANCELLATIONS.

   a. **DOT 3710.2 (including change 1), Labor-Management Relations Program, dated 8-9-72.**

   b. **DOT 3710.1, Labor-Management Relations Policy in the Panama Canal Zone for Department of Transportation Employees, dated 7-19-71.**

3. SCOPE.

   a. **This Order, DOT 3710, applies to all employees in the Department paid from appropriated and nonappropriated funds, including foreign nationals employed in the United States, but does not apply to members of the uniformed services. (See 5 United States Code (U.S.C.) 7103(a)(2))**

   b. **Title VII of CSRA and DOT 3710 will not be applied to offices and entities within the agency who have as a primary function intelligence, counter-intelligence, investigative, or national security work where the President has issued an order excluding such offices and entities from coverage of Title VII based on his conclusion that the provisions cannot be applied to these off ices or entities in a manner consistent with national security requirements and considerations (Reference f). Similarly, the President may issue an order suspending any provision of Title VII and this Order with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security. (See 5 U.S.C. 7103(b)(1) and (2))**

DISTRIBUTION: **All Secretarial Offices**
All Operating Administrations

OPI: Office of Personn and Training

4. REFERENCES.

a. CSRA of 1978, Public Law (P.L.) 95-454, dated 10-13-78.

b. Title 5, Code of Federal Regulations (CFR):

(1) Chapter XIV - Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority, and Federal Service Impasses Panel.

(2) Subchapter A - Transition Rules and Regulations, Part 2400.

(3) Subchapter B - General provisions, Parts 2411, 2412, 2413, 2414 and 2415.

(4) Subchapter C - Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority, Parts 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428 and 2429.

(5) Subchapter D - Federal Service Impasses Panel, Part 2470 and 2471.

c. 29 CFR, Chapter XII, Part 1425, Regulations of the Federal Mediation and Conciliation Service (FMCS).

d. 29 CFR, Chapter XI, Regulations of the Assistant Secretary of Labor for Labor-Management Relations, Standards of Conduct for Labor Organizations in the Federal Service.

e. 49 CFR Subtitle A, Office of the Secretary of Transportation, Part 1, Organization and Delegation of Powers and Duties.

f. Executive Order 12171 of 11-19-79, Exclusions from the Federal Labor-Management Relations Program.

TABLE OF CONTENTS

CHAPTER I. GENERAL

1. BACKGROUND.

a. The Federal Service Labor-Management Relations Statute governs labor-management relations in the Federal service. The statute was enacted because Congress determined that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest, contributes to the effective conduct of public business and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. Further, Congress determined that the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. Based on the foregoing, Congress concluded that labor organizations and collective bargaining in the civil service are in the public interest. The Act prescribes certain rights and obligations of the employees of the Federal Government and establishes procedures which are designed to meet the special requirements and needs of the Government. All provisions of the Act should be interpreted in a manner consistent with the requirements of an effective and efficient Government.

b. Nothing contained in the Act precludes:

(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees which is entered into before the effective date of the Act (1-11-79); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of the Act. Within DOT, such units are generally found only in the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG).

c. Policies, regulations and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787 and 11838, or under any other executive order, as in effect on the effective date of the Act, shall remain in full force and effect until revised or revoked by the Resident, or unless superseded by specific provisions of the Act or by regulations or decisions issued pursuant to the Act or applicable judicial decisions.

d. The regulations and decisions of the Federal. Labor Relations Authority (FLRA) and judicial final decisions are mandatory insofar as program administration is concerned. Regulations of the FLRA, its General Counsel and Federal Service Impasses Panel are controlling with respect to covered issues. The regulations of the FMCS state the conditions and circumstances under which the Service becomes involved in negotiation and other disputes. A working knowledge of applicable decisions and regulations is required for effective labor relations program administration.

2. DEFINITIONS.

a. Words and phrases as defined in the reference documents have the same meanings and applications when used in this document.

b. The following definitions are added or repeated for information purposes:

(1) "Federal Service Labor-Management Relations Statute," "The Act," means Title VII of the CSRA of 1978; P.L. 95-454, dated 10-13-78. Subsequent reference to the Act shall mean the Federal Service Labor-Management Relations Statute.

(2) "Labor Organization" means an organization as defined in 5 U.S.C. 7103(a)(4).

(3) "Unit" means a group of employees found appropriate for purposes of exclusive representation by a labor organization or for the limited purpose of dues deductions under 5 U.S.C. 7115(c).

(4) "National Exclusive" means recognition accorded by an administration headquarters to a labor organization to represent employees in a nation-wide unit.

(5) "Administrator" means the Administrators of the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Research and Special Programs Administration, the Saint Lawrence Seaway Development Corporation, the National Highway Traffic Safety Administration, the Urban Mass Transportation Administration and the Commandant, United States Coast Guard.

(6) "M-10" means Director, Office of Personnel and Training, Office of the Secretary (OST).

(7) "Management Representative" means an official whose duties and responsibilities include representing a DOT organizational segment, within delegated authority, in its relationships with labor organizations representing or seeking to represent DOT employees.

(8) "Grievance" means any complaint--

(a) by any employee concerning any matter relating to the employment of the employee;

(b) by any labor organization concerning any matter relating to the employment of any employee; or

(c) by any employee, labor organization, or agency concerning—

1 the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

2 any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

(9) "Supervisor" means an individual employed by an agency having authority in the interest of the agency, to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

(10) "Management Official? means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

(11) "Conditions of Employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters-

(a) relating to political activities prohibited under Subchapter III of Chapter 73 of title 5;

(b) relating to the classification of any position; or

(c) to the extent such matters are specifically provided for by Federal statute.

(12) "Professional Employee" means an employee as defined in 5 U.S.C. 7103(a)(15).

(13) "Confidential Employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

(14) *Authority* means the FLRA.

(15) "General Counsel" means the General Counsel of the FLRA, except where General Counsel, OST, is identified.

(16) "Panel" means the Federal Service Impasses Panel.

(17) *Service* means the FMCS.

(18) "Primary National Subdivision* means a first-level organizational segment of an agency which has functions national in scope that are implemented in field activities.

3. DELEGATED AUTHORITY. The authority of the Secretary, over and with respect to personnel in DOT, has been delegated to Administrators for the personnel of the administrations (49 CFR §1.45). The Assistant Secretary for Administration has been delegated authority to administer and conduct personnel management activities for OST (49 CFR §1.59). In exercising powers and performing duties delegated or redelegated pursuant to 49 CFR §1.45 and 1.59, officials of DOT are governed by applicable laws, executive orders and regulations and by policies, objectives, plans, standard procedures and limitations issued from time to time by or on behalf of the Secretary (49 CFR §1.42).

CHAPTER II. MANAGEMENT POLICY AND PROGRAM RESPONSIBILITY

1. GENERAL POLICY.

   a. The Department fully supports the Congressional findings and purposes to be served by the Act.

   b. In DOT, management representatives shall deal with recognized labor organizations on conditions of employment (see Chapter I, Paragraph 2b(11), Rage 8). All such dealings with labor organizations shall be conducted in a fair and equitable manner directed at the maintenance of constructive relationships and effective and efficient government.

   c. In dealings with recognized labor organizations, management representatives shall seek to understand and arrive at reasonable and amicable settlements of disputes involving conditions of employment. They shall also comply with the requirements of the Act by involving recognized labor organizations in the formulation and/or implementation of conditions of employment affecting unit employees. Where disputes and good faith differences of opinion do arise, it is incumbent on the parties and employees to seek resolution through appropriate procedures established for such purposes in the Act or applicable negotiated agreements.

   d. All agreements and understandings betweenmanagement and labor organizations shall meet the requirements of 5 U.S.C. 7106 with respect to management rights and shall not conflict with the paramount requirements of the public service. (See Chapter III, Section 3, Rage 20)

2. RESPONSIBILITIES. Labor-Management Relations Program responsibilities are assigned as follows:

   a. Deputy Secretary.

      (1) Monitors the operations of the program within the Department.

      (2) Evaluates the program in the Department and directs such corrective actions and changes in policies and procedures as deemed necessary in the interest of the Department.

b. Administrators.

(1) Administer the Labor-Management Relations Program within their jurisdictions in keeping with the Act, regulations and decisions of outside authorities and this Order.

(2) Keep the Deputy Secretary advised of significant problems and the progress of the program.

(3) Forward to M-10 for approval any proposed submissions to the Authority involving:

(a) requests for exceptions to arbitration awards;

(b) negotiability issues (including compelling need);

(c) request for review of an issuance or decision of a Regional Director of the Authority in a representation matter; and

(d) any questions involving general statements of policy and guidance or petitions to mend any regulations of the Authority or the Panel.

(4) Forward to the Assistant Secretary for ministration (M-1) for decision requests for exceptions to Departmental or primary national subdivision policies and regulations.

(5) Obtain approval of M-10 before an administration:

(a) denies a union's request for national consultation rights or terminates such rights;

(b) proposes or agrees with a union(s) request for consolidation of units which includes employees other than the administration in question;

(c) petitions for an election to determine whether a labor organization enjoys support by a majority of employees in a unit;

(d) files an unfair labor practice charge against a labor organization; or

(e) initiates action concerning judicial review under 5 U.S.C. 7123.

(6) Promptly advise M-10 (in writing) of:

(a) requests for Panel assistance in the resolution of negotiation impasses made by a labor organization or the administration;

(b) any request filed with the Authority by an employee(s) or union requesting review of an issuance or decision of a Regional Director in a representation matter;

(c) any indications of strikes, work stoppages, slowdowns, or other activity by employees prohibited by 5 U.S.C. 7116(b)(7) and any picketing of a facility or office (by telephone initially);

(d) any action by the Authority to enforce an order or obtain temporary relief or a restraining order under 5 U.S.C. 7123(b) or (d);

(e) requests for consultation rights on Government-wide rules or regulations;

(f) any action involving the issuance or enforcement of subpoenas requiring the attendance and testimony of witnesses and/or the production of documents or other evidence in a matter before the Authority;

(g) any response to a labor organization request at the level of negotiation for a determination as to the negotiability of a proposal or the compelling need for a Departmental or primary national subdivision regulation;

(h) any labor organization, FMCS or Panel request or recommendation that an impasse issue be submitted to binding arbitration under 5 U.S.C. 7119 (see (a) above); and

(i) a copy of any letter to the Office of Personnel Management (OPM), General Amounting Office, Authority, Panel, or Service requesting guidance or advice on matters related to the Act.

(7) Forward promptly to M-10 as information copies of all:

(a) petitions of recognition (RO) or decertification (DR) (RA), including unit clarification (CU), amendment of unit (AC) petitions, or consolidations (UC);

(b) complaints issued by the General Counsel and decisions by the Authority in unfair labor practice cases, informal or formal settlement agreements, and decisions or certifications in unit consolidations and representation matters, including election results;

(c) arbitration awards including any awards involving impasses under 5 U.S.C. 7119(b) (2) (also furnish copy to OPM, Office of Labor-Management Relations);

(d) labor relations implementing directives issued by administrations;

(e) negotiated agreements and negotiated supplements (3 copies);

(f) Authority or arbitrator awards of attorney fees;

(g) correspondence concerning standards of conduct cases; and

(h) grants of National Consultation Rights (NCR).

(8) Approve or disapprove negotiated agreements within 30 days of execution.

(9) Periodically evaluate the operations of their Labor-Management Relations Programs.

c. General Counsel (OST). The OST General Counsel is the chief legal advisor for the Department and has responsibility for providing legal service and/or assistance on matters arising under the Department% Labor-Management Relations Program. Upon request, the OST General Counsel shall, following coordination with M-10, provide for, or as appropriate, arrange for administration counsel when it is determined that legal representation is required in a hearing or other proceeding under the Act.

d. Assistant Secretary for Administration.

(1) Administers the Labor-Management Relations Program within OST in keeping with the Act, regulations of outside authorities and this directive, including program evaluation for OST. Approves agreements negotiated with labor organizations representing OST employees.

(2) Keeps the Deputy Secretary advised of significant problems and the progress of the program in the Department.

(3) Issues agency determinations on negotiability and compelling need issues under 5 U.S.C. 7117(b) and (c) for the entire Department following a labor organization petition to the Authority.

e. Director, Office of Personnel and Training, OST (M-10).

(1) Serves as the primary Departmental contact with the FLRA, the Federal Service masses Panel and the FMCS to take actions listed below on behalf of the Department in connection with labor-management disputes or questions arising within the Department.

(a) Requests the Authority to grant an exception to an arbitration award.

(b) Responds to the Authority concerning any negotiability and compelling need issues referred by a labor organization involving a Departmental office or activity.

(c) Requests reconsideration or clarification of labor-management relations policies, regulations, or decisions of the Authority, Panel or Service.

(d) Submits to the Authority requests for general statements of policy, interpretation or guidance.

(2) Seeks the advice of the OST General Counsel on legal questions arising under the Labor-Management Relations Program.

(3) Provides program advice and assistance to the Deputy Secretary, the Assistant Secretary for Administration and the administrations.

(4) conducts staff reviews and analyses of matters referred to the agency for coordination and review and makes appropriate recommendations.

(5) Maintains Departmental liaison with the Authority, the Department of Labor and the Office of the Assistant Director for Labor-Management Relations of OPM.

(6) Carries out Departmental obligations under national consultation rights.

f. Supervisors and Other Management Representatives. The establishment of effective labor-management relations is a fundamental responsibility of every supervisor and other management representatives having subordinates subject to the provisions of Federal Service Labor-Management Relations Statute.

CHAPTER III. RIGHTS AND RESPONSIBILITIES OF THE PARTIES

1. EMPLOYEE RIGHTS AND RESPONSIBILITIES.

a. General.

(1) Each employee of the Department has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of this right. Except as otherwise provided in the Act, such right includes the right-

(a) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the Executive Branch of the Government, the Congress, or other appropriate authorities; and

(b) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under the Act.

(2) Paragraph 1a(1) (a) above does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in the Act, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee. In the event a conflict or apparent conflict of interest situation arises, the employee should be provided a reasonable amount of time to correct the situation. A clarification of unit petition may be filed with the Authority in conflict of interest situations where there is a question as to whether the employee should be in the unit.

(3) Employees have the right to solicit membership or support in behalf of or in opposition to labor organizations during non-work time of affected employees. At their work place, employees should be permitted normal freedom for person-to-person communications regarding labor organizations, provided there is no interference with work. Such discussions should not be treated any differently from other discussions among employees which do not create safety hazards or interfere with production or the maintenance of discipline among the workforce.

(4) Employees have the right to distribute literature during non-work time of affected employees and in non-work areas. The right of employees, as distinguished from non-employees, to distribute literature soliciting membership or support for or against labor organizations or to engage in campaign activities is not dependent upon when a labor organization may file a timely challenge to the status of an incumbent labor organization. Management representatives have substantial discretion in deciding what official facilities and services *over* which it has control will be made available to employees for distribution of literature. In order to maintain neutrality, management representatives should refrain from policing or commenting on the contents of literature being distributed. However, when libelous, scurrilous or inflammatory literature is posted or placed for distribution on the premises, the management representative may require its removal. Management representatives also should avoid evaluating the propriety of literature which allegedly contains derogatory statements or misrepresentations by one labor organization about another. However, when the agency is the target of misrepresentations, management representatives may make or issue statements correcting erroneous information. (See 5 U.S.C. 7116(e)

(5) A negotiated agreement may not require an employee to become or remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

b. Representation by Other Than Exclusive Representative. The rights conferred upon a recognized labor organization by the Act do not preclude an employee from being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action or from exercising grievance or appellate rights established by law, rule, or regulation except when the grievance or appeal is covered under a negotiated grievance procedure.

c. &presentation During Certain Examinations. The exclusive representative of an appropriate bargaining unit must be given the opportunity to be represented at any examination of an employee in the unit in connection with an investigation if the employee believes it may result in disciplinary actions and the employee requests representation. This right is commonly referred to as a "Weingarten" right based on its similarity to the right involved in a decision of the Supreme Court in NLRB vs. Weingarten (420 U.S. 251, 88 LRRM 2689 (1975).) The Act also requires that each agency inform its employees annually of these rights. Notification for the entire Department is handled by OST in an annual notice (see DOT Notice 3710.6). New employees should be advised of these representation rights during their orientation briefing.

2. LABOR ORGANIZATION RIGHTS AND RESPONSIBILITIES.

a. Labor Organization Rights.

(1) Labor organizations accorded exclusive recognition, have the right to act for and negotiate agreements covering all employees in the unit and are obligated to represent the interests of all employees without discrimination or regard to labor organization membership. Also, labor organizations must be provided an opportunity to be present at formal discussions between one or more agency representatives and one or more unit employees or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment of unit employees.

An exclusive representative also shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of management in connection with an investigation if the employees reasonably believe that the examination may result in discipinary action against him and the employee requests representation, (See Paragraph 1c above)

(2) When a question concerning representation has been raised, management officials shall not discriminate between labor organizations having equivalent status in granting the use of agency facilities and services. Rather, such facilities or services furnished to contending labor organizations in connection with the representation proceeding must be made available on an impartial basis. Any restrictions on the use of agency facilities and services must be uniformly applied to employees and labor organizations alike. Management officials must maintain a neutral position and may neither espouse nor oppose the exercise of rights guaranteed employees or labor organizations by the Act. Where non-employee representatives of a labor organization are permitted to conduct organizing or campaign activities on the premises, identical privileges must be extended to other labor organizations who so request and who have equivalent status.

b. Labor Organization Responsibilities. Labor organizations which request or hold exclusive recognition must comply with the standards of conduct contained in 5 U.S.C. 7120. Questions concerning a labor organization% compliance will be referred to M-10 in connection with OST or to the headquarters labor relations staff in the affected administration.

c. **Prohibited Practices.** Labor organizations are prohibited from engaging in those practices contained in 5 U.S.C. 7116(b), including calling or participating in a strike, work stoppage, or slowdown or picketing an agency in a labor-management dispute if such picketing interferes with agency operations. Actual or suspected strike, work stoppages, or slowdowns and all picketing will be promptly reported to M-10. Management representatives must secure the prior approval of M-10 before filing an unfair labor practice charge against a labor organization. (See Chapter II, Paragraph 2(b) (6) (c), Page 12)

3. MANAGEMENT RIGHTS AND RESPONSIBILITIES.

a. **Management Officials, Supervisors and Confidential Employees.** A management official, supervisor, or confidential employee may join a labor organization, but may not participate in the management of the organization or act as its representative except when the participation or activity by management officials and supervisors is pursuant to:

(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between a DOT organization and an exclusive representative of its employees entered into before the effective date of the Act (January 11, 1979); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors which historically or traditionally represent management officials or supervisors in private industry and which held exclusive recognition for units of such officials. or supervisors in any agency on the effective date of the Act (January 11, 1979).

b. **Management Rights.**

(1) Subject to Subparagraph (2) below, nothing in the Act shall affect the authority of any management official-

(a) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(b) in accordance with applicable laws—

1 to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay or take other disciplinary action against such employees;

2 to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

3 with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or any other appropriate source; and

4 to take whatever actions may be necessary to carry out the agency mission during emergencies.

(2) Nothing in the Act shall preclude any agency and any labor organization from negotiating-

(a) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work; (See Chapter V, Section 1c, Rage 33)

(b) procedures which management officials of the agency will observe in exercising any authority under this Act; or

(c) appropriate arrangements for employees adversely affected by the exercise of any authority under the Act by such management officials.

c. Management Responsibilities.

(1) Comply with the provisions of the Act concerning rights and obligations of management, employees, and labor organizations.

(2) Avoid any interference with the rights of employees to form, join or assist a labor organization or to refrain from such activity, including representation matters.

(3) Represent and uphold the management viewpoint in the administration of agency policy and in the negotiation of agreements and express management% viewpoints in communications with employees and labor organization representatives.

(4) Meet with labor organizations and bargain or engage in such other discussions as may be appropriate under the Act or applicable negotiated agreements, except that such obligations do not include matters covered in Paragraphs b(1) and b(2) (a) above.

(5) Adhere to the requirements of the Act with respect to the unfair labor practices prohibited by 5 U.S.C. 7116(a).

(6) Promptly inform higher level management of significant problems affecting labor-management relations and implementation of the program.

(7) Place authority for the conduct of labor-management relations at the level where it can be used most effectively.

(8) Assign adequate resources and personnel to ensure the availability of labor relations expertise and training.

CHAPTER IV. NATIONAL CONSULTATIONS, REPRESENTATION PROCEEDINGS, AND DUES WITHHOLDINGS

1. GENERAL. Labor organizations granted exclusive recognition or entitled to national consultation rights shall have the rights and obligations extended by the Act. Except in connection with representation proceedings, unfair labor practice complaints and deduction of dues under 5 U.S.C. 7115(c), management representatives will negotiate or consult only with those organizations which have such recognition or rights. Recognition of a labor organization(s) does not preclude all relationships with individual employees (see Chapter III, Paragraph 1b, Page 18, on personal representation) or with religious, social, fraternal, professional and other organizations (see Chapter IX, Dealing with Non-Labor Groups, Page 57).

2. NATIONAL CONSULTATION RIGHTS.

   a. NCR may be accorded at the Departmental or headquarters level of an administration. Requests for NCR at the Departmental level are to be submitted to M-10. Otherwise, requests are to be submitted to the appropriate Administrator. Determinations with respect to primary national subdivisions, eligibility criteria, and according rights are controlled by 5 CFR 2426. Administrators shall notify M-10 when they accord rights within their respective jurisdictions or propose to terminate such rights.

   b. The Assistant Secretary for Administration for DOT and the Administrators of each primary national subdivision will review labor organizations' continued entitlement to NCR on an annual basis. Where it is determined that a labor organization is no longer entitled to such rights, at least 30 days notification will be provided in accordance with 5 CFR 2426.12b(3)(v).

   c. When a labor organization has been accorded NCR, M-10 or Administrators, as appropriate, shall give the designated labor representative:

      (1) reasonable notice of any proposed substantive change in conditions of employment;

(2) reasonable time to present its views or recommendations regarding the change; and

(3) if a labor organization presents any views and recommendations regarding any proposed substantive change in conditions of employment, management will:

(a) consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(b) provide the labor organization a written statement of the reasons for taking the final action.

3. EXCLUSIVE RECOGNITION.

a. GENERAL.

(1) A labor organization that has been accorded exclusive recognition is the exclusive representative of employees in the unit and is entitled to act for, and negotiate collective bargaining agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership.

(2) To establish its eligibility for exclusive recognition, a labor organization must file a petition with the appropriate Regional Director of the Authority. It must also give a copy of the petition together with a statement of its objectives, a roster of its officers and representatives and a copy of its constitution and by-laws to the appropriate management representative.

(3) Administrators are responsible for complying with the posting and other unit determination requirements of the Authority. (See 5 CFR 2422)

(4) Administrations and OST will provide M-10 with a copy of any petitions for exclusive recognition filed by a labor organization, election results, and resulting certifications including situations where an exclusive representative loses recognition (see Chapter II, Paragraph 2b(7), Page 13).

(5) **Operating Administrations will promptly notify M-10 of any petition for national exclusive recognition and provide a copy of the petition together with the proposed administration position (see Chapter II, Paragraph 2b(7), Page 13).**

(6) **When organizations petition for exclusive recognition, management representatives and supervisors must not express preference for any labor organization. Likewise, supervisors and management representatives will not sponsor or assist in the circulation of a decertification petition by individual employees.**

(7) **Management representatives will not challenge an existing exclusive recognition unless there are good faith doubts, based on objective considerations, that the currently recognized labor organization represents a majority of employees in the existing unit or that because of a substantial change in the organization and scope of the unit, the unit continues to be appropriate. Prior consultation with M-10 is required before any organizational segment of the Department may file a Representative Status (RA) petition with the Authority (see Chapter II, Paragraph 2b(5)(c), Page 11).**

b. Appropriate Units.

(1) **Management representatives, the petitioning labor organization and any qualified intervenor(s) may stipulate to the appropriateness of a unit for purposes of exclusive recognition. The decision as to whether a unit is appropriate, however, is made by the Authority. The Authority determines in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under the Act, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and determines any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operation of, the agency involved.**

(2) A unit will not be determined to be appropriate under the Act solely on the basis of the extent to which employees in the proposed unit have organized, nor will a unit be determined to be appropriate if it includes-

(a) any management official or supervisor, except as provided in 5 U.S.C. 7135(a)(2) ;

(b) a confidential employee;

(c) an employee engaged in personnel work in other than a purely clerical capacity (generally, a person who makes or participates in decisions or recommendations in matters which are concerned with personnel or training policies and procedures or matters directly affecting the working conditions of employees in the unit is engaged in work of other than a purely clerical capacity) ;

(d) an employee engaged in administering the provisions of the Act;

(e) both professional employees and other employees, unless the majority of the professional employees vote for inclusion in the unit;

(f) any employee engaged in intelligence, counter-intelligence, investigative, or security work which directly affects national security; or

(g) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

(3) Where a unit determination hearing is scheduled a copy of the notice of hearing will be provided to M-10. Following determination of an appropriate unit, a labor organization will be accorded exclusive recognition when it is certified by the Authority as having been selected by a majority of the unit employees voting in a secret ballot election conducted by the agency and supervised by the Authority. An agency may, however, accord exclusive recognition to a labor organization, without an election where the appropriate unit is established through the consolidation of existing exclusively recognized units r-resented by that organization. (See Section c below)

c. Unit Consolidations.

(1) An agency may accord exclusive recognition to a labor organization without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization. Where either party or the employees involved request, an election must be held. The Authority determines whether the proposed consolidated unit is appropriate and certifies the labor organization as the exclusive representative. Election, certification and agreement bars do not apply when a labor organization or the agency seeks to consolidate their existing units except where there has been an election for the same unit or subdivision thereof within the preceding 12 months.

(2) The affected Administrator shall be notified of any management proposal to consolidate units or any labor organization request to consolidate units within an administration. M-10 shall be notified of a proposal to consolidate units across organization lines, i.e., where employees of the proposed consolidated unit are not wholly within OST or an administration.

(3) Upon certification of consolidation of units, terms and conditions of existing agreements covering those units shall remain in effect, except as agreed to by the parties, until a new agreement for the consolidated unit becomes effective. The timing and procedures for negotiation of an agreement for a consolidated unit are for determination by the parties. (See 5 CFR 2422.2(h)(8))

4. ELECTIONS.

a. Management representatives will cooperate with the Regional Director of the Authority in conducting elections to determine whether a labor organization shall become or remain the exclusive representative of a unit or whether existing units shall be consolidated. (see 5 U.S.C. 7111(f)(3) and 5 CFR 2422.3 concerning timeliness of petitions) Resources of the Department shall be made available as required for the proper and efficient conduct of the election. (See 5 U.S.C. 7111(d) and 5 CFR 2422.17)

b. If, as a result of an objection, a Regional Director issues a notice of hearing, a copy of the notice shall be forwarded by the management representative directly to the appropriate Administrator. A copy of the decision of the Administrative Law Judge (ALJ) shall be furnished promptly to the appropriate Administrator and M-10.

c. When the Regional Director, after considering an objection or challenged ballots, determines that no relevant question of fact exists and accordingly issues a report and findings, a copy of the latter must be furnished promptly to the appropriate Administrator and M-10.

d. If a Regional Director determines that no relevant question of fact exists but that a substantial question of interpretation or policy exists and accordingly transfers the case to the Authority, a copy of his Report and Findings to this effect must be furnished promptly to the Administrator. A representative of the administration will, in turn, immediately notify M-10 by telephone. Timely notification is important because the Authority only allows 25 days for the filing of briefs and/or requests for review of the Regional Director's action (5 CFR 2429.1(a)).

5. DUES WITHHOLDING.

a. Exclusive Units.

(1) When authorized by appropriate written assignment, management is required to deduct from the pay of an employee in an exclusive unit an allotment to a labor organization for dues which are required to maintain membership in the organization. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided in Subparagraph (2) below, any such assignments may not be revoked for a period of 1 year.

(2) An allotment made under Section (1) above shall terminate when:

(a) the agreement between the agency and the exclusive representative ceases to be applicable to the employee;

(b) the employee is suspended or expelled from membership in the exclusive representative; or

(c) the employee revokes the allotment in accordance with applicable arrangements between the parties.

b. No Exclusive Unit.

(1) A labor organization may petition the Authority alleging that 10 percent of the employees in an appropriate unit have membership in the organization. Upon certification by the Authority of the validity of the petition, management has an obligation, if requested to do so by the labor organization, to negotiate with the labor organization solely concerning the deduction of dues from the pay of members who are employees in the unit and who made a voluntary allotment for such purpose.

(2) (a) The provisions of Paragraph (1) above do not apply in any instances where there is an exclusive representative of the employees involved.

(b) Any agreement negotiated pursuant to Paragraph b(1) above with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

c. Dues Withholding Agreements.

(1) While not required by the Act, the parties may decide to formalize dues withholding arrangements by including them as part of a basic negotiated agreement or in a separate memorandum of understanding. Such dues withholding arrangements may not conflict with the applicable requirements of 5 U.S.C. 7115.

(2) To avoid subsequent administrative problems, negotiated dues withholding arrangements should indicate how often a change may be made in the amount of the dues allotment and identify the annual date or such other intervals as may have been continued after the effective date of the Act with respect to revocation of dues allotments. In this regard the Authority has determined that the 1-year period for revocation of dues assignments contained in Section 7115(a) of the Act does not apply in those situations where the parties to an existing collective bargaining agreement have mutually agreed to renew or continue the 6-month intervals for the revocation of dues assignments. However, the 1-year period applies where either the agency or the union objects to continuation or renewal of existing lesser intervals. In such instances, the 1-year period begins to run from either of the following dates, whichever is later (see DOT Notice 3710.5 of 8-16-79) :

(a) the ending date of the last 6-month interval when the dues allotment could have been revoked; or

(b) the date on which the employee authorized the dues allotment.

(3) In order to clearly establish the responsibilities of the parties and to facilitate dues allotments, the parties also may wish to cover the following matters:

(a) filing of the dues withholding authorization shall be a voluntary action by the employee;

(b) the amount of the allotment for dues;

(c) a requirement for prompt notification of the agency by the labor organization of an employee's notification of revocation of the allotment or ineligibility to continue an allotment;

(d) the title and address of the labor organization official who is to receive the remittance and the remittance listing;

(e) the information to be provided in the remittance listing;

(f) the procedures for adjustments of errors in the amount Of the remittance;

(g) the effective date of allotments; and

(h) the frequency with which the labor organization will be permitted to change the amount Of the dues to be deducted.

(4) Charge to Labor Organization. Dues allotments from employees in exclusive units shall be made at no cost to the recognized labor organization. However, the amount of the fee to be charged a labor organization for such withholding service under the 10 percent membership provision (see b(1) above) is negotiable.

CHAPTER V. NEGOTIATIONS AND AGREEMENTS

1. GENERAL.

a. When a labor organization has been accorded exclusive recognition, representatives of management and the labor organization are required to meet at reasonable times and bargain in good faith. This obligation comprehends that the parties will:

(1) approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition Of employment;

(3) meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative upon request and, to the extent not prohibited by law, data:

(a) which is normally maintained by the agency in the regular course Of business;

(b) which is reasonably available' and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(c) which does not constitute guidance, advice, counsel or training provided for management officials or supervisors, relating to collective bargaining; and

(5) if agreement is reached, execute on the request of any party to the negotiation a written document embodying the agreed terms and take such steps as are necessary to implement the agreement.

b. (1) The duty to bargain extends to personnel policies, practices, and matters affecting working conditions unless such policies, practices and matters:

(a) relate to political activities prohibited under Subchapter III of Chapter 73, 5 U.S.C.;

(b) relate to the classification of any position;

(c) are specifically provided by Federal statute;

(d) are inconsistent with any Federal law or regulation;

(e) are subject to a Government-wide rule or regulation; and

(f) are inconsistent with applicable Departmental or primary national subdivision rules or regulations except where the Authority has determined that no compelling need exists for such agency rules or regulations. (See 5 CFR 2424.11)

(2) Subparagraph (f) above applies to any rule or regulation issued by the Department or issued by any primary national subdivision of the Department, unless a labor organization represents an appropriate unit including not less than a majority of the employees in the Department or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

c. Except as provided in Section 4 below, the obligation to bargain does not extend to those matters covered in Chapter III, Section 3b, "Management Rights," Page 20. Before negotiating on any labor organization proposals dealing with those matters covered in 5 U.S.C. 7106(b)(1), the so-called "permissive" areas of bargaining, management representatives should give careful attention to the impact of such proposals on the efficiency and effectiveness of agency operations. Where it is determined that identifiable adverse impacts are not balanced by corresponding benefit to the organization, management representatives should not agree to such proposals. Prior to agreeing to any labor organization proposals dealing with the methods and means by which agency operations are to be conducted, management representatives should consult with their headquarters labor relations office. (See 5 U.S.C. 7106)

d. 29 CFR 1425 contains the regulations of the FMCS issued to fulfill its responsibilities under 5 U.S.C. 7119 to provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation impasses (see Section 5 below). The exclusive representative and the agency may determine appropriate techniques, consistent with the provisions of 5 U.S.C. 7119, to assist in any negotiation.

2. NEGOTIATION, OFFICIAL TIME, AND PER DIEM. The time, place and other arrangements for negotiations are matters to be determined by the parties concerned or controlled by applicable provisions of existing negotiated agreements. Management representatives have an obligation to provide exclusively recognized labor organizations with reasonable notice and an opportunity to request to bargain on personnel policies, practices and matters affecting working conditions absent a clear and unmistakable waiver of the right to bargain. This obligation exists with respect to situations where there is no basic agreement and during the term of an existing agreement, including the exercise of procedures and adverse impact negotiations cited in Section 4 below. Employees in the unit representing a labor organization in negotiations shall be authorized official time for such purposes, including attendance at impasse proceedings during the time the employee(s) would otherwise be in a duty status. The number of employees granted official time shall not exceed the number of individuals designated as management negotiators. (See Chapter VII) Employees serving as labor organization negotiators who are on official time under 5 U.S.C. 7131 (a) are also entitled to reimbursement for travel and per diem expenses incurred in connection with the conduct of negotiations with management. Employees participating for or on behalf of a labor organization in proceedings before the Authority are entitled to official time, travel, and per diem in accordance with 5 CFR 2429.13-14.

3. SUBSEQUENTLY ISSUED RULES AND REGULATIONS. It is an unfair labor practice under 5 U.S.C. 7116(a)(7) for management to enforce any Government-wide or agency rule or regulation (other than a rule or regulation implementing Section 2302 of the Act concerning prohibited personnel practices) which is in conflict with any applicable negotiated agreement if the agreement was in effect before the date the rule or regulation was prescribed. Agreements shall be brought into conformance with such Government-wide and applicable Departmental or primary national subdivision rules and regulations at the time the agreement is renewed, extended, or renegotiated.

4. PROCEDURES AND IMPACT NEGOTIATIONS. 5 U.S.C. 7106(b) (2) and (b) (3) require notification to a labor organization and an opportunity to request negotiations on the procedures to be used in exercising management's rights and on appropriate arrangements for employees adversely affected by the exercise of such rights.

5. RESOLVING NEGOTIATION IMPASSES.

a. While the obligation to bargain does not compel either party to agree to a given proposal or make a concession thereon, the object of the bargaining process is, to the maximum extent possible, to resolve all negotiation impasses through voluntary means short of imposed settlements. Available resources within the Department and administrations for settlement of disputes will be used before management representatives refer disputes outside the agency for assistance.

b. The FMCS provides assistance to agencies and labor organizations in the resolution of negotiation impasses. The Service determines under what circumstances and in what manner it shall provide services and assistance (see 29 CFR 1425).

c. If voluntary arrangements, including the assistance of the Service or any other third-party mediation, fail to resolve a negotiation impasse, either party may request the Panel to consider the matter, or the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel. (See 5 CFR 2471.3(b) and 6(b)) Except where provided in a negotiated agreement, management, at any organizational level, will not jointly or independently file a request for resolution of a negotiation impasse with the Panel or request approval of a binding arbitration procedure without prior approval of M-1 for OST or the appropriate Administrator of the affected administration. Administrators will be notified promptly by their subordinate officials of union requests that the Panel consider a negotiation impasse. Administration officials will, in turn, advise M-10 when an impasse is referred to the Panel. (See Chapter II, Paragraph 2b(6) (h), Page 12)

d. It is an unfair labor practice for either an agency or labor organization to fail or refuse to cooperate in impasse procedures and impasse decisions as required by the Act. (See 5 U.S.C. 7116(a) (6) and (b) (6))

e. If the parties are unable to reach a settlement with assistance from the Panel, the Panel is empowered to take whatever action is necessary to resolve the impasse. Such final action shall be binding on the parties for the term of an agreement unless the parties agree otherwise.

6. NEGOTIABILITY ISSUES.

a. Where representatives of OST or an administration involved in negotiations allege that the duty to bargain in good faith does not extend to any matter because the proposal(s) is inconsistent with law, rule or regulation, or does not involve a personnel policy, practice, or matter affecting working conditions, the exclusive representative may appeal the allegation to the Authority when-

(1) it disagrees with the agency's allegation that the matter, as proposed to be bargained, is inconsistent with any Federal law or any Government-wide rule or regulation, or is not otherwise subject to the obligation to bargain; or

(2) it believes, with regard to any agency rule or regulation asserted by the agency as a bar to negotiations on the matter, as proposed, that:

(a) the rule or regulation violates applicable law, or rule or regulation of appropriate authority outside the agency;

(b) the rule or regulation was not issued by the agency or any primary national subdivision of the agency, or otherwise is not applicable to bar negotiations with the exclusive representative under 5 U.S.C. 7117(a)(3); or

(c) no compelling need exists for the rule or regulation to bar negotiations on the matter, as proposed, because the rule or regulation does not meet the illustrative criteria for determining compelling need for agency rules and regulations as set forth in 5 CFR 2424.11.

b. Prior to filing an appeal with the Authority, the labor organization must request in writing that OST or the administration representative involved in the negotiations provide a written determination as to the negotiability of the proposal(s). The management representative is required to provide a written determination to the labor organization within 10 days of receipt of the request. The labor organization must file a timely appeal with the Authority within 15 days of receipt of the management position and serve a copy of the appeal on the Secretary or M-10. Furnishing a copy of the labor organization petition to M-10 will meet the requirements of 5 U.S.C. 7117(c)(2) and 29 CFR 2424.4(b) and minimize delays in processing such appeals. Where the management representative fails to respond within 10 days of the labor organization request, the labor organization may appeal to the Authority without having received the management position on the proposal(s).

c. The Department has 30 days from the receipt of its copy of the labor organization's appeal to file a statement with the Authority either withdrawing the prior management contention of non-negotiability or supporting its position. The labor organization then has 15 days after receipt of the Department's position to file its response with the Authority.

d. All agency responses to the Authority involving negotiability issues within the Department, including those involving compelling need, will be made by M-1.

(1) To minimize situations where local management's initial determination on non-negotiability are modified or reversed during the Department's response to the Authority, management negotiators should try to anticipate negotiability disputes which may arise. While the labor organization controls the timing of requests for management decisions, management representatives will often be aware of potential disputes prior to a written request for a decision. In these situations, management representatives should coordinate the position they intend to take with the appropriate headquarters labor relations staff. The latter should coordinate the matter with the OST Labor Relations Staff (M-17), where it appears that a negotiability dispute may arise.

(2) In situations where a written request is received prior to the coordination suggested above, management negotiators must attempt to obtain telephone coordination with their headquarter's labor relations staffs prior to a written decision to the union within the allotted 10 days.

(3) Copies of all written negotiability determinations together with a full description of the disputed proposals(s) will be forwarded immediately to the appropriate headquarters labor relations staff who will, in turn, notify M-17.

f. Where a labor organization files an unfair labor practice charge which involves a negotiability issue and also files a petition for review of the same negotiability issue, the Authority and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Rather, the labor organization must select the procedure which it desires followed. The Authority will then ordinarily suspend action on the other case. The labor organization must notify the Authority in writing of its selection or procedure and serve copies on the appropriate Regional Director and all parties to both the unfair labor practice and negotiability cases. Where the negotiability dispute arises during the course of negotiation of a basic contract (as distinguished from negotiations involving an actual or contemplated change in conditions of employment) the labor organization may only pursue the matter through the negotiability procedures of the Authority (see 5 CFR 2424.5).

7. WRITTEN AGREEMENTS.

a. General.

(1) Where management representatives and the labor organization reach agreement on personnel policy, practices and matters affecting working conditions and either party requests it, they will execute a written document embodying the agreed upon terms and take steps as are necessary to implement the agreement.

(2) Local agreements may be negotiated on the basis of national exclusive recognition Where the national agreement so provides and such negotiations shall be subject to the provisions of the national agreement.

(3) Copies of negotiated agreements will be provided to management officials responsible for their administration and should be made readily accessible to unit employees.

b. Contents.

(1) Each written agreement shall provide procedures applicable only to employees in the unit, for settlement of grievances, including questions of arbitrability. (See Chapter VI) Additionally, each agreement as a minimum shall contain:

(a) a statement identifying the parties to the agreement;

(b) a description of the specific unit to which the agreement applies; and

(c) a statement specifying the effective date of the agreement, its duration, and the conditions of reopening and terminating it. Agreements which go into effect automatically following the 30-day period in 5 U.S.C. 7114(c) (3) and which do not contain the effective date of the agreement, will not constitute a bar to an election petition. (See 5 CFR 2422.3(i))

c. Approval.

(1) The Assistant Secretary for Administration for OST and the Administrators are delegated authority under 5 U.S.C. 7114(c) (3) to approve agreements negotiated within their respective jurisdictions. The Authority delegated is in conformity with the delegation in 49 CFR §1.45.

(2) The Assistant Secretary for Administration for OST and the administrations shall establish procedures to ensure that negotiated agreements are promptly forwarded for approval following execution by the parties. An agreement shall be approved within 30 days from the date it is executed if the agreement is in accordance with the provisions of the Act and any other applicable law, rule, or regulation (unless an exception has been granted). An agreement which has not been approved or disapproved within 30 days from the date of execution shall take effect without the required approvaland shall be binding on the parties subject to the provisions of applicable law, rule or regulation. (See Section 7b(1)(c) above regarding failure to cite the effective date of such an agreement)

(3) Three copies of each approved agreement shall be submitted to M-17. Additionally, two copies of each approved agreement shall be submitted to the Assistant Director for Labor Management Relations of OPM, 1900 E. Street, N.W., Washington, D.C. 20415.

CHAPTER VI. GRIEVANCE AND ARBITRATION PROCEDURES

1. REQUIREMENTS. All negotiated agreements must contain procedures for the settlement of grievances, including questions of arbitrability. Except as provided below, the negotiated grievance procedure shall be the exclusive procedure for resolving grievances which fall within its coverage. Grievance procedures negotiated by the parties shall:

   (a) be fair and simple;

   (b) provide for expeditious processing; and

   (c) include procedures that-

      (1) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit, to present and process grievances;

      (2) assure an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

      (3) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

2. SCOPE AND COVERAGE.

   a. The term "grievance" (see Chapter I, paragraph 2b(8), Page 7) is defined by 5 U.S.C. 7103(a)(9) to provide for the broadest possible scope and coverage of the negotiated grievance procedure and includes such matters as reduction-in-force, denial of within-grade increase, Fair Labor Standards Act issues, and suspensions of 14 days or less. However, the parties may limit the scope of the grievance procedure by agreeing to exclude certain matters from its coverage. In addition, 5 U.S.C. 7121(c) provides that grievances concerning the following matters must be excluded from coverage of negotiated grievance procedures:

      (1) any claimed violation of Subchapter III of Chapter 73, title 5, U.S.C., relating to prohibited political activities;

(2) retirement, life insurance, or health insurance;

(3) a suspension or removal for national security reasons under section 7532 of title 5, U.S.C.;

(4) any examination, certification or appointment; or

(5) classification of any position which does not result in the reduction in grade or pay of an employee.

b. The following matters, while covered by statutory appeals procedures, are also included under coverage of the negotiated grievance procedure unless the parties otherwise agree:

(1) discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation; (see 5 U.S.C. 2302 (b) (1))

(2) removals and reductions in grade for unsatisfactory performance; (See 5 U.S.C. 4303) and

(3) removals, suspensions for more than 14 days, reductions in grade or pay, and furloughs for 30 days or less. (See 5 U.S.C. 7512)

c. Where the matters noted in Paragraph b above are covered by a negotiated grievance procedure, an employee has the option of using the statutory procedure or the negotiated procedure but not both. The option is exercised when the employee initiates a timely appeal under the applicable statutory procedure or files a timely grievance in writing, in accordance with the provisions of the negotiated procedure, whichever event occurs first.

d. In cases involving discrimination complaints (Subparagraph b(1) above), selection of the negotiated procedure does not prevent the aggrieved employee from:

(1) requesting the Merit Systems Protection Board (MSPB) to review a final decision under 5 U.S.C. 7702 in the case of any personnel actions that could have been appealed to MSPB; or where applicable,

(2) requesting the Equal Employment Opportunity Commission (EEOC) to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the EEOC.

e. With the exception of those matters noted in Subparagraphs b(2) and b(3) above, issues which can be raised under a negotiated grievance procedure and which also involve a possible unfair labor practice, may be raised under either the negotiated grievance procedure or the Authority% procedures for resolving unfair labor practices (see 5 CFR 2423), but not under both, and the choice is irrevocable.

f. In order to avoid confusion among unit employees as to available grievance and appeal procedures, the parties should clearly define the scope of the negotiated grievance procedure by specifically listing matters included or excluded from its coverage, including those listed in Subparagraph 2(a) above.

3. ARBITRATION.

a. Arbitration may only be invoked by the labor organization or the agency. Such matters as the method of selecting an arbitrator, the sharing of the costs of arbitration, including the arbitrator's fee and transcripts, witnesses, entitlement to official time, etc., are matters for negotiation by the parties.

b. All questions concerning the arbitrability of a grievance will be decided by the arbitrator unless provided otherwise in the negotiated agreement.

c. When an employee selects the negotiated grievance procedure in lieu of the statutory appeals procedure to contest actions under Subparagraphs b (2) and b (3) above, and the matter is referred to arbitration, the arbitrator is bound by the standards of proof contained in 5 U.S.C. 7701 (c) (1), which requires that:

(1) in the case of unacceptable performance, the action is supported by substantial evidence; and

(2) in any other case, the action is supported by a preponderance of the evidence.

d. **Back Pay and Attorney Fees.**

(1) **An arbitrator may award back pay as provided in 5 U.S.C. 5596 which covers decisions relating to grievances and unfair labor practices. Where an arbitrator's finding that an employee was affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction in all or part of the pay, allowances, or differentials is adopted, the employee is entitled to:**

(a) correction of the personnel action; and

(b) **to receive an amount equal to all or any part of the pay allowances or differentials, as applicable, which the employee normally would have earned or received during the period had the personnel action not occurred, less any amounts earned by the employee through other employment during the period.**

(2) **A "personnel action" is defined to include the mission or failure to take an action or confer a benefit such as the denial of an overtime assignment under a non-discretionary provision of a negotiated agreement.**

(3) **An arbitrator also may award reasonable attorney fees where back pay is provided and there is a determination that payment of such fees is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit. In the case of a finding of discrimination covered by Subparagraph b (1) above, the payment of attorney fees shall be in accordance with the Civil Rights Act of 1964.**

(4) **When an arbitrator's award requires an administration of the Department to pay attorney fees, the affected management representatives will immediately coordinate the matter with their headquarters labor relations officer so that a determination may be made as to the appropriateness of the award or initiation of any appeal that may be required.**

e. Exceptions to Arbitration Awards.

(1) Either party may file an exception to an arbitration award with the Authority (5 CFR 2425). The exception must be filed within 30 calendar days of the date of the award. Where timely exceptions are filed, the Authority will review an arbitration award to determine if the award is deficient on extremely limited grounds. An award will be modified or set aside only Where the award is shown to be:

(a) contrary to any law, rule or regulation; or

(b) on *other* grounds similar to those applied by Federal courts in private sector labor-management relations.

(2) The Authority will not consider exceptions to any award relating to:

(a) an action based on acceptable performance covered under 5 U.S.C. 4303;

(b) a removal, suspension for more than 14 days, reduction in grade, reduction in pay, or furlough of 30 days or less covered under 5 U.S.C. 7512; or

(c) matters similar to those covered under 5 U.S.C. 4303 and 7512 which arise under other personnel systems. Such awards are subject to judicial review. (See Subparagraph g below)

(3) If an exception is not filed within 30 days of the date of the award, the award becomes final and binding. This time limit may not be extended. In view of this short time frame, a management representative who believes that an exception is appropriate, should communicate immediately with the headquarters labor relations staff. The proposed exception along with all supporting documents and a letter of transmittal to the Authority should be submitted to M-10 no later than 25 days from the date of the award. Likewise, if a labor organization files an exception, the proposed agency position in opposition to the exception and all available information relating to the award should be submitted to M-10 no later than 25 days from the date of service of the labor organization% exception(s).

f. **Discrimination Issues.** An employee who elects to use the negotiated grievance procedure and alleges discrimination in connection with a matter appealable to the MSPB (a so-called "mixed case") or the EEOC, may seek review of a final decision under the negotiated grievance procedure by the MSPB or EEOC, as appropriate. (See 5 U.S.C. 7121(d))

g. **Judicial Review.**

(1) Decisions of the Authority on exceptions to arbitration awards are not subject to judicial review unless the award involves an unfair labor practice. Any person aggrieved by a final order of the Authority concerning exceptions to an arbitration award involving an unfair labor practice may seek judicial review in the appropriate circuit of the Unites States Court of Appeals within 60 days of the Authority's decision.

(2) Where an arbitration award involves an action cited in Subparagraphs 2(b) (2) and 2(b) (3) above, only the grievant or OEM and not the agency may request judicial review. A petition for review must be filed in the United States Court of Claims or the appropriate United States Court of Appeals within 30 days of receipt of notice of the final decision of the arbitrator. Prompt notification of the headquarters labor relations office of the administration involved and M-10 is essential for communication with OPM seeking their support for judicial review.

CHAPTER VII. STATUS OF EMPLOYEES REPRESENTING LABOR ORGANIZATIONS AND USE OF GOVERNMENT FACILITIES

1. OFFICIAL TIME.

a. Official time may not be granted to employees serving as labor organization representatives in connection with any activities performed relating to the internal business of a labor organization. Such activities as solicitation of membership, distribution of literature, campaigning for and elections of labor organization officials, and solicitation or collection of dues must be performed during the time the employee(s) involved is in a nonduty status. In addition, official time should not be granted employees for such activities as attending labor organization meetings, conferences and training sessions except as provided in Paragraph e below.

b. Employees representing an exclusive representative in negotiations will be authorized official time and travel and per diem in accordance with the provisions of Chapter V, Paragraph 2, Page 34, of this Order and 5 U.S.C. 7131(a).

c. The granting of official time to employees in appropriate units for the purpose of representing a labor organization for all other labor relations matters covered by the Act is a matter for negotiation between the parties. The amount of time agreed to by the parties shall be reasonable, necessary and in the public interest (see 5 U.S.C. 7131(d)).

d. In proceedings before the Authority, the Authority determines whether any employee participating for, or on behalf of, a labor organization is authorized official time and travel and per diem for such purposes during the time the employee otherwise would be in work or paid leave status. (see 5 CFR2429.13)

e. Employees who are labor organization representatives may be granted official time to attend union-conducted training sessions where the subject matter is of mutual concern to management as well as the employee in the capacity of a labor organization representative and the management interest will be served by attendance at the training, The training, for example, may involve such matters as statutory and regulatory provisions relating to pay, working conditions, work schedules, employee appeal procedures as well as agency policies and the provisions of negotiated agreements. Where the mutual benefit test is met, official time may be granted for short periods of time--ordinarily not to exceed 8 hours per person each year-that are reasonable under the circumstances.

f. DOT Order 3720.1, Policies and Procedures for Recording Official Time for Representational Functions, contains further policies and procedures for recording official time granted employee representatives for performing any representational functions.

2. LEAVE FOR REPRESENTATIVES. When the work situation permits, annual leave or leave without pay may be granted to an employee to perform the duties and responsibilities associated with labor organization business for which official time has not been negotiated or authorized. The amount of leave and the time at which it is to be granted for these purposes must be compatible with the employee's official work situation. Leave without pay may be granted to employees to serve as full-time labor organization representatives provided they may be spared from their positions for the amount of time involved and further that absences in such capacity are in the interest of the Government.

3. USE OF GOVERNMENT FACILITIES.

a. Management has considerable discretion in deciding what facilities and services under its control will be made available for use by employees serving as labor organization representatives, Where there is an exclusive representative, the use of such facilities and services by the labor organization is a matter for negotiation between the parties, Before permitting the use of agency facilities and services, management should consider the following:

(1) the granting of permission to a labor organization for use of agency facilities and services would be in accordance with existing law and regulation;

(2) the facilities and services requested are necessary to the labor organization for appropriate labor-management purposes;

(3) where there is an exclusive representative, other labor organizations should not be granted use of facilities and services unless such use is granted under the "equivalent status" doctrine (see Chapter III, Paragraph 2a, Page 19);

(4) reasonable conditions for use of the facilities and services are established and agreed to by the labor organization; and

(5) benefits will accrue to management by virtue of improved labor-management relations.

CHAPTER VIII. UNFAIR LABOR PRACTICES

1. GENERAL.

a. 5 U.S.C. 7116(a), (b) and (c) of the Act set forth those actions which constitute unfair labor practices for an agency or a labor organization. An agency or labor organization determined by the Authority to have engaged in prohibited action(s) is subject to the sanctions listed in Section 5 below.

b. The General Counsel of the Authority has the responsibility of investigating, processing unfair labor practice charges and issuing a complaint where appropriate. 5 U.S.C. 7118, however, expressly prohibits the issuance of a complaint based on an alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority unless the General Counsel determines that the complainant was prevented from filing the charge because the agency or labor organization against whom the charge is made failed to perform a duty owed to the complainant, or due to concealment. In such instances, the 6 month period within which a charge may be filed is computed from the day of discovery of the occurrence.

c. It is the policy of the Authority and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by the Regional Director. Management representatives should cooperate fully with Authority representatives in attempting to reach an informal settlement of unfair labor practice charges which is fair and equitable to the parties concerned. Before any settlements are agreed to, however, the headquarters labor relations office of the administration involved should be consulted on the matter. Copies of formal or informal settlements should be provided to M-10. (See Chapter I, Paragraph 2b(7)(b), Page 13)

d. Management representatives will not file unfair labor practice charges against labor organizations without prior coordination with their headquarters office and clearance from M-10. (See Chapter I, Paragraph 2b(5)(d), Page 12)

2. APPEALABLE ACTIONS. Issues which can be raised under statutory appeals procedures may not be raised as unfair labor practices. This includes adverse actions under 5 U.S.C. 7512 or demotions or removals based on unacceptable performance under 5 U.S.C. 4303, where an employee has the option of using the negotiated grievance procedure or the statutory appeal procedure. However, other matters which can be raised under a grievance procedure may, at the discretion of the aggrieved party, be raised under the negotiated grievance procedure or under the unfair labor practice procedure, but not both. (See 5 U.S.C. 7116(d))

3. PROCESSING.

a. A charge that an activity, agency or labor organization has engaged in any action prohibited by 5 U.S.C. 7116 may be filed by any person, i.e., management, labor organization or an employee. After investigating the charge and attempting an informal settlement, the Regional Director determines whether to issue a complaint or dismiss the charge, subject to an appeal to the General Counsel. The decision of the General Counsel in such matters is final.

be Failure to file an answer or to plead specifically to or explain any allegation will be considered by the Authority as constituting an admission of such allegation unless good cause to the contrary is shown.

c. If after investigation, the Regional Director determines that formal proceedings should be instituted, a formal complaint is issued. This determination by the Regional Director is not subject to review. A copy of any complaint issued by the Authority involving any administration of DOT shall be furnished promptly to the headquarters labor relations office and M-10, followed by a copy of the proposed response to the Authority.

d. Where a complaint is not resolved, a hearing is held before an ALJ. The parties have the right to appear in person, by counsel or other representative and to examine and cross-examine witnesses, to introduce into the record documentary or other relevant evidence, and to submit rebuttal evidence. The General Counsel has the responsibility of presenting the evidence in support of the complaint and the burden of proving the allegations of the complaint by a preponderance of the evidence. Post-hearing briefs are filed with the ALJ within such reasonable period following the close of the hearing as may be determined by the ALJ.

e. The decision of the ALJ containing conclusions as to the disposition of the case, appropriate remedial action, and notices to be posted is served on all parties to the proceeding when the case is transferred to the Authority. Any exceptions to the ALJ decision must be filed with the Authority within 25 days after service of the decision. Since the Authority may adopt the ALJ decision without discussion in the absence of timely exceptions, the filing of such exception is critical where management disagrees with the ALJ conclusions and decision. In view of the short time frame for filing exceptions, the headquarters labor relations office of the administration involved should be informed by telephone of the ALJ decision by the management representatives handling the case. The administration labor relations office will then in turn notify M-10 of the decision and assure that a copy is furnished promptly. After considering the ALJ decision, the record, and any exceptions and related submissions filed, the Authority will issue its decision affirming or reversing the ALJ in whole or in part, or making such other disposition of the matter as it deems appropriate. A copy of any decision of the Authority involving any administration of the Department shall be furnished promptly to the headquarters labor relations office and to M-10.

4. COMMUNICATIONS WITH EMPLOYEES. 5 U.S.C. 7116(e) provides that the expression of any personal view, argument, opinion or the making of any statement by a management representative which—

a. publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election;

d. Where a complaint is not resolved, a hearing is held before an ALJ. The parties have the right to appear in person, by counsel or other representative and to examine and cross-examine witnesses, to introduce into the record documentary or other relevant evidence, and to submit rebuttal evidence. The General Counsel has the responsibility of presenting the evidence in support of the complaint and the burden of proving the allegations of the complaint by a preponderance of the evidence. Post-hearing briefs are filed with the ALJ within such reasonable period following the close of the hearing as may be determined by the ALJ.

e. The decision of the ALJ containing conclusions as to the disposition of the case, appropriate remedial action, and notices to be posted is served on all parties to the proceeding when the case is transferred to the Authority. Any exceptions to the ALJ decision must be filed with the Authority within 25 days after service of the decision. Since the Authority may adopt the ALJ decision without discussion in the absence of timely exceptions, the filing of such exception is critical where management disagrees with the ALJ conclusions and decision. In view of the short time frame for filing exceptions, the headquarters labor relations office of the administration involved should be informed by telephone of the ALJ decision by the management representatives handling the case. The administration labor relations office will then in turn notify M-10 of the decision and assure that a copy is furnished promptly. After considering the ALJ decision, the record, and any exceptions and related submissions filed, the Authority will issue its decision affirming or reversing the ALJ in whole or in part, or making such other disposition of the matter as it deems appropriate. A copy of any decision of the Authority involving any administration of the Department shall be furnished promptly to the headquarters labor relations office and to M-10.

4. COMMUNICATIONS WITH EMPLOYEES. 5 U.S.C. 7116(e) provides that the expression of any personal view, argument, opinion or the making of any statement by a management representative which—

a. publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election;

6. ENFORCEMENT.

a. The Authority may petition any appropriate United States Court of Appeals for the enforcement of its orders, including those in unfair labor practice cases, and for appropriate temporary relief or restraining order.

be The Authority may seek temporary relief or a restraining order in an unfair labor practice case.

c. Where the Authority institutes such enforcement actions, the headquarters labor relations office and M-10 should be notified promptly.

7. JUDICIAL REVIEW. Any person aggrieved by a final order Of the Authority in an unfair labor practice case may within 60 days of the. date on which the order was issued institute an action for judicial review of the Authority's order in the United States Court of Appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia. Management representatives may not initiate a request for judicial review of an Authority order in an unfair labor practice case without prior clearance from the headquarters labor relations office Of the administration involved. The latter office will coordinate the matter with M-10 before approving such a request. The headquarters labor relations office of the administration and M-10 will be notified promptly of any union initiated requests for judicial review in unfair labor practice cases.

CHAPTER IX. TRAINING AND STATISTICAL INFORMATION

1. TRAINING.

   a. Effective implementation of the Act can only be carried out by meaningful delegation of authority to management representatives who are properly trained to handle labor-management relations. Each management official has a special responsibility to see that labor-management relations training is given to each supervisor and individual who will be dealing with employees and labor organization representatives in day-to-day relationships and in the negotiation and the administration of collective bargaining agreements. The greater the responsibility of the individuals for dealing with union representatives, the more thorough their grounding and training in labor-management relations should be.

   b. Operating Administrations must ensure that labor relations training is made available to those individuals needing such training. This training, where appropriate, should involve the rights, responsibilities and obligations of the parties under the Act; contract administration, and specialized training for management negotiators prior to their assignment to management bargaining teams.

   c. It is incumbent on management officials to ensure that their representatives in arbitration, Panel proceedings, unfair labor practices, and other matters before the Authority are fully trained and prepared to exercise their representational functions. This includes necessary coordination with appropriate OST or administration offices such as Civil Rights, General/Chief Counsel and the Office of Personnel and Training.

2. REPORTING. OST and the Operating Administrations will prepare statistical reports containing the information listed below and submit the reports to M-17 semi-annually. Reports will be submitted to M-17 by the 15th of May for the period November through April, and by the 15th of November for the period May through October. The semi-annual reports (see attachment 2) submitted to M-17 should contain the following information:

a. Exclusive Units.

(1) Number of existing exclusive units and approximate number of employees represented, showing General Schedule professional and nonprofessional, Wage Grade and Nonappropriated Fund employees separately.

(2) Number of pending units (petitions have been filed but no certifications issued by the Authority) and estimated number of employees involved.

b. Agreements.

(1) Number of agreements currently in effect and approximate number of employees covered.

(2) Number of agreements being negotiated and approximate number of employees covered.

c. Unions.

A listing by unions of:

(1) the number of units represented;

(2) unit population;

(3) number of agreements in effect;

(4) number of agreements pending; and

(5) number of employees on dues withholding.

CHAPTER X. DEALING WITH NON-LABOR GROUPS

1. SCOPE OF DEALINGS.

   a. The provisions of the Act do not preclude dealings with veterans' organizations with respect to matters of particular interest to employees with veterans preference. Similarly, agencies may engage in dealing with religious, social, fraternal, professional or other lawful associations, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

   b. The relationship with such organizations may not take on the character of negotiation or consultation as defined in the Act, or otherwise impact on an agency's relationships with labor organizations under the Act.

2. APPROPRIATE MATTERS FOR DISCUSSION.

   a. Examples of matters appropriate for discussion include the following:

      (1) a veterans' organization may discuss matters such as the application of provisions of the Veterans Preference Act to a particular veteran with respect to adverse actions, retention preference or the application of other legislation or regulations specifically affecting veterans;

      (2) an agency may consult with groups representing minorities or women in connection with the agency's Equal Employment Opportunity programs and action plans;

      (3) an agency may consult with any association or organization on matters related to its mission and programs or on matters of concern to the local community and the general public; and

(4) an agency may discuss a proposed agency sponsorship or support of employee welfare, social and recreational associations or other private associations that provide services that contribute to employee welfare and morale. Such sponsorship and support include the use of facilities and space and the use of facilities for the dissemination of information about its activities or offers to employees.

b. An agency may discuss with a professional association the granting of privileges to the association where the agency has determined that such action would be beneficial to the agency's program or would be warranted as a service to employees who are members of the association. These are merely examples of the types of matters which may be discussed with non-labor groups and are not to be considered as an all inclusive list or a limiting of the types or organizations which may bring matters to management's attention. Of paramount concern in any discussions, however, is that they do not involve grievances, personnel policies and practices, or other matters affecting the working conditions of employees or in any other way place the agency in a position where it would be vulnerable to a charge of violating the Act.

FOR THE SECRETARY OF TRANSPORTATION:

Edward W. Scott, Jr.
Assistant Secretary for
Administration

Attachment 2

SUGGESTED FORMAT FOR REPORTING LMR STATISTICAL INFORMATION

Organization: _____

Period: _____

1. Units

Number of Units	Number of Employees Represented				
	Total	GS	Wage	NAF	Professional
Existing					
Pending					

2. Agreements

	Number	Employees Covered
Existing		
Pending		

3. Unions

Union Name	Number of Units	Unit Population	Number of Agreements in Effect	Number of Agreements Pending	Number of Employees on Dues Withholding

Attachment 3

SUMMARY OF LABOR RELATIONS COORDINATION/NOTIFICATION REQUIREMENTS

ISSUE	REQUIREMENT	LOCATION IN DOT ORDER-PAGE
Arbitration		
Copies of Awards	Copy to M-10/OPM	13
Impasse Issues	Notification to M-10	12
Management Exceptions	M-10 Approval/Submission to FLRA	11, 45
Union Exceptions	Copy to M-10	45
Attorney Fee Awards	Copy to M-10/Coordination with Administration	13, 44
Compelling Need Issues		
Agency Position to FLRA	M-10 Approval/ Submission to FLRA	11
Local Management Decision	Notification to M-10	12
Consolidation of Units		
Across Administrations	M-10 Approval	11, 27
Within Administrations	Notification to Administration	27
Consultation Rights		
Government-wide Regulations	Notification to M-10	12
National Consultation Rights (Denial-Termination)	M-10 Approval	11, 23
Election Results	Notification to M-10	13
Enforcement of FLRA Order	Notification to M-10/ Administration	12, 54
Exceptions to Agency Regulations	M-1 Approval	11
Implementing Directives	Copy to M-10	13
Judicial Review		
Management Initiated	M-10 Approval	12, 46, 54
Union Initiated	Notification to M-10/ Administration	54

ISSUE	REQUIREMENT	LOCATION IN DOT ORDER-PAGE
Negotiated Agreement	Copy to M-17/OPM	40
Negotiating/Pensive Areas	Notification to Administration	40
Negotiability Disputes		
Agency Position to FLRA	M-10 Approval/Submission to FLRA	11, 37
Local Agency Determination	Notification to M-10	12, 38
Petition to Amend FLRA Regulations	M-10 Approval/Submission	11
Picketing	Telephone/Written Notification to M-10	12
Policy Statement by FLRA	M-10 Approval/Submission	11
Representation Matters		
Certifications	Copy to M-10	13
Election Results	Copy to M-10/Administration	13, 24, 28
Hearing Notices	Copy to M-10/Administration	24, 27, 28
Management Initiated RA	M-10 Approval	11, 25
Management Initiated Review of Regional Director Decision	M-10 Approval/Submission to FLRA	11
Petitions to FLRA	Copy to M-10	13, 25
Union Initiated Review of Regional Director Decision	Notification to M-10	12
Request for Panel Assistance	Notification to M-10/ Administration	12, 35
Request for Guidance from OPM, GAO, FLRA, FSIP or FMCS	Notification to M-10	13
Standards of Conduct	Copy to M-10/Administration	13, 19
Statistical Report	To M-10	55

ISSUE DOT ORDER-PAGE	REQUIREMENT	LOCATION IN
Strike-Work Stoppages	Telephone/Written Notification to M-10	12
Subpoenas	Notification to M-10	12
Unfair Labor Practices		
Agency Response	Copy to M-10/Administration	51
ALJ Decision	Notification to M-10/ Administration	52
Complaints, Decisions and Settlements	Copy to M-10/Administration	13, 50, 51
FLRA Decision	Copy to M-10/Administration	52
Management Initiated ULP	M-10 Approval	12, 20
Temporary Relief/		
&straining Orders	Notification to M-10/ ministrations	54

SUBJECT MATTER INDEX
FOR USE WITH
DOT ORDER 3710

The following index is keyed to the appropriate page number(s) on which the subject matter appears. Cross reference to the appropriate subject matter in the Federal Service Labor-Management Relations Act can be accomplished by use of the subject matter index in Attachment 1.